

INFORMED BUDGETEER

WHAT IS S. RES. 209?

- On April 2, 1998, immediately after Senate passage of S. Con. Res. 86 (the FY 1999 Budget Resolution), the Senate also agreed to S. Res. 209 in order to provide the Senate Committee on Appropriations with a section 302(a) allocation. This permitted the Committee to proceed to make its 302(b) suballocations and begin the mark-up of the FY 1999 appropriations bills.
- Usually the 302(a) allocation is set out in the statement of managers which accompanies a conference report on a budget resolution. Because it was clear that the House of Representatives was not prepared to move a budget resolution and proceed to conference, the Senator Domenici felt it was advisable to pass S. Res. 209 in order to expedite the appropriations process this year.
- In the interim, the Transportation Efficiency Act for the 21st Century (TEA21) was enacted. TEA21 provides for two new categories within the discretionary spending limits defined in section 251© of the Balanced Budget and Emergency Deficit Control Act of 1985: one for highways; one for mass transit.
- Thus for FY 1999 there will be 5 separate and enforceable discretionary spending limits, and it became necessary to amend S. Re. 209 to reflect these 2 new categories. This was accomplished when the Senate granted a unanimous consent request by Chairman Domenici on July 9. The table below reflects the current 302(a) allocation to the Committee on Appropriations for FY 1999.

REVISED 302(a) FY1999 ALLOCATIONS (\$ in millions)		
Category	Budget Authority	Outlays
Defense discretionary	271.6	266.6
Nondefense discretionary	254.6	264.4
Violent crime reduction	5.8	5.0
Highways	--	21.9
Mass transit	--	4.4
Mandatory	299.2	291.7
TOTAL	831.1	854.0

CONFERENCE AGREEMENT ON IRS REFORM

- House and Senate conferees reached an historic agreement on legislation to reform the way the Internal Revenue Service (IRS) deals with its customers, the American taxpayers. Both the House and Senate have passed the conference agreement nearly unanimously, and the President is now anxious to sign the bill (despite coming out against IRS reform at first).
- The bill creates important new taxpayer protections, the main ones being: shifting the burden of proof to the IRS in court proceedings; innocent spouse protections in the case of divorce or separation; and, suspending interest and penalties if the IRS fails to notify taxpayers within 18 months of any problems.
- The bill increases oversight of the IRS by: creating a nine-member oversight board (subject to Senate confirmation); giving the IRS Commissioner new management tools; making the Taxpayer Advocate more independent; and, transferring the IRS Office of Chief Inspector to the new Treasury IG for Tax Administration.
- The legislation holds IRS employees accountable for their actions by: requiring termination of IRS employment if an employee is found guilty of any of several severe infractions; holding IRS employees and managers accountable in the collection area; and, requiring all IRS correspondence to include the name and phone number of an employee to contact.
- The bill contains a few measures that stray from strict IRS reform measures - it changes the holding period for long-term capital gains from 18 to 12 months, allows deductibility of meals when provided for the convenience of the employer, and changes the trade term

“most favored nation” to “normal trade relations.”

- The bill results in gross revenue losses of \$4.1 billion over the 1998-2002 period and \$12.9 billion over the 1998-2007 period. Revenue increases to offset these lost revenues are more than sufficient to cover the revenue losses resulting in a net increase in revenues of \$1.1 billion over the next 10 years.

INTERNAL REVENUE SERVICE REFORM ACT (Fiscal years, \$ in Billions)			
	1998-02	2003-07	1998-07
Taxpayer Protection & Rights			
Revenues	-4.1	-8.8	-12.9
Revenue Offsets	4.5	9.4	13.9
Net Total	0.5	0.6	1.1

SOURCE: JCT & CBO.

CLARIFYING THE TECHNICAL CORRECTION

- On July 8, Senator Murray raised a point of order against the IRS reform bill on the grounds that the TEA-21 technical corrections bill that was added to the conference report was outside the scope of the conference.
- In making her point of order, Sen. Murray argued that the technical corrections bill would take \$17 billion away from veterans. This claim is patently false. In fact the technical corrections bill increased spending on veterans by almost \$1 billion.
- The TEA-21 bill made three errors or omissions that cut-off or denied increased compensation to certain groups of veterans and their families.
- First, the corrections bill reinstated eligibility for several groups of veterans inadvertently denied compensation. The TEA-21 bill as drafted wrongly cut off compensation eligibility for active duty personnel who come down with a tobacco related illness. Also, TEA-21 denied compensation to those veterans who have just left the military and are in a statutory presumptive period where all illnesses -- regardless of the cause -- are assumed to be a result of the veterans military duties. Reinstating eligibility will increase spending by \$854 million over five years.
- Second, the technical correction also clarifies that the grandfather clause for compensation eligibility will include those veterans who have filed a claim before the enactment date, not only those with adjudicated claims upon enactment. Therefore, everyone currently receiving compensation or with a claim on file will retain their rights to compensation. This changes has a an effect of less than \$500,000 per year.
- Finally, the corrections bill adds a new section which extends the GI bill reimbursement increase to a veteran’s survivor and dependents. TEA-21 increased all GI bill educational benefits by 20%. The rate increase for survivors and dependents was intended to be included in the original bill but was inadvertently left out. Including dependents in the GI Bill rate increase raises spending by \$105 million over five years.
- If the motion to table Murray’s appeal of the ruling of the Chair with respect to her point of order under Rule XXVIII, paragraph 2 (exceeding the scope of the conference) had been defeated and her appeal thus prevailed the Senate would have been left in the following posture: The point of order would have been sustained, and the conference report on the conference report on the IRS bill would have been defeated in its entirety.
- Because the House of Representatives had already agreed to the conference report and the conference was disbanded, the conference report could NOT have been recommitted.
- At that moment, pending before the Senate would have been the House IRS restructuring bill with a Senate amendment. Under the rules and precedents of the Senate, that Senate amendment would

NOT be amendable, except by unanimous consent. However, it would have been in order to move to further insist on the Senate amendment, request a conference, and appoint new conferees, thus sending the bill back to the House for its consideration.

- Note that the House would not necessarily have to go to conference, but could have chosen to further amend. Clearly, sustaining the point of order and defeating the conference report would not have led to a simple process by which the Veterans’ issue could be addressed - it would have undone months of careful consideration and compromise on the IRS restructuring issue.

LINE ITEM VETO AND ARAB, ALABAMA

- When the Supreme Court ruled that the Line Item Veto was unconstitutional, that decision clearly invalidated the President’s cancellations of the Medicaid provision in the Balanced Budget Act and the agriculture cooperative provision in the Taxpayer Relief Act which were the line items specifically at issue in the Supreme Court case. The Supreme Court was very clear that the law was unconstitutional, but there is some question what this decision means for the other 41 cancellations that were not directly addressed by the Supreme Court.
- The betting is that the Justice Department will agree that these remaining 41 cancellations also are invalidated by the Supreme Court’s decision. If so, OMB will release funding for these projects and restore the tax status of the other limited tax benefit (exemption for active financing income) that were canceled.
- With the release of these funds, OMB will restore \$335 million in budget authority for these 40 projects. As required by the Line Item Veto’s lockbox, OMB was planning to lower the caps in this August’s Sequester Update Report. With the law’s invalidation, the caps will not be lowered.
- Two of the President’s cancellations affected Arab, Alabama. The FY 1998 Transportation Appropriations Act provided \$400,000 for the construction of an underground emergency transportation management center in Arab, Alabama, and the FY 1998 VA-HUD Appropriations Act provided \$15,000 for a multi-departmental police training complex also in Arab. The President used the Line Item Veto authority to cancel funding for both of these projects.
- Instead of trying to overturn the President’s cancellation, the Congress provided another \$400,000 for the Arab, Alabama’s emergency transportation management center in the FY 1998 supplemental. The President did not cancel this funding. With the Line Item Veto’s invalidation, the city of Arab hits the jackpot. On top of the \$400,000 it received in the Supplemental, Arab will get another \$400,000 for this same project and the \$15,000 for police training complex.

WE GET LETTERS (OR EMAIL IN THIS CASE)

The *Bulletin* received this email on July 6, from Richard Kogan, policy director for the House Budget Committee.

The June 29 Informed Budgeteer told me to "Take heart. TEA21 is on budget, still discretionary spending, and its spending increases are essentially offset." I guess my information differs from yours.

1. You can consider highway and mass transit spending discretionary if you wish, but highways and mass transit are now the only discretionary programs exempt from the discretionary caps (because any excess amounts for highways and mass transit will squeeze out, or cause sequesters in, NON-highway funding). Further, these are the only programs that, according to House rules, must not be UNDERfunded. In contrast, a mere entitlement, such as Food Stamps or Title XX, can be cut in an appropriation bill with no procedural bar.

My conclusion is that highways and mass transit now enjoy a more

exalted status than any other programs. a) Exempt from sequestration. b) Not subject to discretionary caps. c) Can be increased in appropriations or other bills. d) Cannot be cut in any subsequent legislation. Even Social Security does not enjoy the last privilege. In fact, Social Security benefits generally cannot be increased without running afoul of House and Senate rules.

2. It's all very well to assert that TEA21 costs have been paid for, but the issue isn't how much the highway and mass transit spending exceeds the WODI (CBO's funding freeze), but rather how much the non-transportation caps were reduced to make up for the two newly created categories of "discretionary" spending. Those cap reductions were \$131.6 billion, not the \$135.8 you show for CBO's WODI.

Since the cap reductions were less, the net "discretionary" spending increase was greater: \$22 billion rather than the \$17 billion you claim.

3. And CBO's estimate of the Veterans provisions shows considerably smaller savings than you attribute, and CBO's estimate of the Student Loan costs are greater than you attribute, as you note in the footnotes to your table. Of course, it is the prerogative of the Budget Committees to ignore CBO estimates and use their own, but ignoring CBO doesn't build confidence in the unbiased nature of the estimates.

AND WE RESPOND:

1. Highways & transit are still discretionary (subject to the appropriations process) and still subject to the caps. The *Bulletin* agrees that highways & transit will enjoy a status no other discretionary programs enjoy.

The House point of order does not place a binding floor on highway or transit funding. This point of order does not apply in the Senate. The House frequently ignores its own rules. For example, section 309 of the Budget Act provides a point of order against the House recessing for the July 4th break unless it has passed all 13 appropriations bills. This rule was not enforced this year and the Bulletin is unaware of any instance that this particular rule has been sustained in the House.

2. The Bulletin agrees with Mr. Kogan on the issue of the OMB vs. CBO WODI baseline on calculating changes to the caps with a couple of caveats. The Administration insisted that OMB’s baseline be used to calculate the reduction in the nondefense caps. There are no caps in 2003, which raises a question about whether the separate highway and transit caps needed to be offset that year, which is the year TEA-21 had the greatest cost relative to a CBO WODI baseline.

3. Offsets. Mr. Kogan is correct that OMB estimates were used for the Veterans provisions. With respect to student lending, the Budget Committees decided not to move to probabilistic scoring for student lending this year as suggested by CBO. All legislation affecting student lending has been scored since the beginning of the year using CBO non-probabilistic estimates including the Higher Education bill, which by the way, was not offset under anyone's scoring when it passed the House (it was offset in the Senate).

The *Bulletin* finally notes that anyone paying attention to the debate would realize that there was enormous support for additional highway spending and practically no support for any offsets under anyone’s scoring. The House attempted to take highways off-budget and Senator Murray along with 47 other Senators attempted to unravel the Veterans offset that was used to pay for TEA-21.